

Appendix 7

2nd UK Case study

Influence of Local Communities on Decision Processes: Experience of Copeland and Shetland Islands

31st January 2007

Based on vignettes prepared by Fergus McMorrow from Copeland Borough Council and Alastair Hamilton from Shetland Islands Council

COWAM 2 – Work Package 2:

Influence of local actors on national decision-making processes

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Introduction

The focus of this case study is the concerns of two communities affected, albeit in different ways, by radioactive waste management and the decommissioning of nuclear installations. These are communities affected by the decisions of nuclear operators, regulators and national policy makers. As such they interact with these organisations and quite naturally they are concerned about their long-term sustainability. Thus they want to influence decisions that affect both the long-term management of radioactive waste and current management decisions that may foreclose their options and opportunities. One of these communities, Copeland, has large nuclear installations in its territory and stores about 60% of the UK radioactive waste. The other, the Shetland Islands, has no nuclear installations or waste in its territory, but its environment is affected by, and may be damaged by decisions at the Dounreay's nuclear site, 160 kms away from them. In particular, both communities are affected by current policy implementation. The core of this case is two vignettes written by Fergus McMorro of Copeland Borough Council and Alastair Hamilton of the Shetland Islands Council. The vignettes were prepared for the 3rd SRG meeting in Madrid, February 2005 and revised in June 2006.

The Copeland Experience

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June 2006

1. Introduction

- 1.1 This review has been produced to provide background information for the COWAM II- WP2 work. It provides an overview aimed at helping identify areas of special interest that can be described in further detail and fed into the COWAM II process later as necessary.
- 1.2 The review is written from the personal perspective of the writer, an officer of Copeland Borough Council (municipality).

2. Copeland's Role

- 2.1 Copeland has a statutory role in relation to the nuclear industry as a local planning authority. This role is shared with Cumbria County Council which has a strategic planning role over a wider area. Cumbria County Council has statutory responsibility for issues that need to be dealt with over a wider area and this includes all kinds of waste disposal. Cumbria County Council will, therefore, deal with applications for final disposal of Radioactive Waste such as at Drigg LLW repository and the Nirex Proposals of a repository. Copeland Borough Council deal with, amongst others, 'industrial' processes related to the management of radioactive materials.
- 2.2 However, Copeland Borough Council recognises its key role is community leadership and representing the needs of its community to the industry and other layers of Government. This is particularly important due to the dominance of the industry in the community economically, socially and environmentally. The future of Copeland is heavily determined by decisions made in relation to the nuclear industry.

3. Key Issues for Copeland Borough Council

- 3.1 The community has lived with the industry for many years and whilst recognising the importance of safety and environmental impact generally, is currently focussing on two major concerns:
- i. The impact of cleaning up and decommissioning nuclear related activities and the consequent loss of jobs on the socio-economic well being of the area.
 - ii. The potential of Copeland becoming the final or interim home for the UK's nuclear waste and the impact of that on efforts to diversify to a new non-nuclear economy.

4. Decision Influencing Processes – Site Specific

- 4.1 Until April 2005 interactions with BNFL/(BNG) provided the main vehicle for influencing site-based decisions. This is because BNFL were responsible to UK Government's Department of Trade and Industry for managing the Sellafield and the Low Level Radioactive Waste Repository near the village of Drigg¹. This situation significantly changed in 2005 when the ownership of the sites was transferred to Nuclear Decommissioning Authority (NDA). At this point BNFL (BNG) became the site operating company working to a contract provided by the NDA. Key strategic decisions are now taken by the NDA and implemented by BNG.
- 4.2 Sellafield Local Liaison Committee (SLLC)/West Cumbria Site Stakeholder Group
- The SLLC was the formal mechanism for passing information on what was happening on the site to the local community and other stakeholders. Meetings were held in public. It was independently chaired and attended by elected representatives from local authorities, parish councils and non-elected representatives from other relevant agencies. Site operators and regulators were present and provide reports on progress and regulation. The secretariat was provided by BNG.
- 4.3 In practice SLLC was information giving rather than 'consultative'. Quarterly meetings focussed on site activities, discharges, environmental impact etc. and although there were sub committees which report back to the SLLC, it was difficult to address in detail the range of issues affecting each nuclear site in any depth or their relationship with national policy issues. The Council's input to this mechanism was reactive to the issues raised. The establishment of the Council's own Nuclear Working Party within the current structures has improved the process for developing the Council's own policy positions and, therefore its influence on issues arising.

¹ The Term Sellafield is often used to include not only the Sellafield site itself but also the Calder Hall Power Generation site and the Windscale site operated by UKAEA

4.4 In 2005 the SLLC evolved to meet the needs of NDA's consultative requirements. It became the West Cumbria Sites Stakeholder Group (WCSSG), its role and modus operandi following the principles set out by the Department of Trade and Industry following consultation. These have previously been referred to in COWAM II papers. This envisaged a more consultative role with the Group having a stronger input to decision making. BNG still provide the secretariat. It is intended that the group will be provided with resources to commission its own work such as peer reviews as it sees necessary. However this has not happened yet. In addition the WCSSG also feeds into a National Stakeholder Forum. Following lobbying from Copeland the representation at those meeting has been adjusted to ensure that WCSSG were allowed to send 6 people instead of the normal two from each site stakeholder Group. This goes some way to providing fair representation as the WCSSG covers sites dealing with 60-70% of the UK's nuclear waste liability. Whilst the National Forum focuses on national strategic issues, the nature of the West Cumbrian sites is such that many national strategic decisions have a direct local site implication.

4.5 Quarterly Meetings

Copeland Borough Council holds quarterly meetings with BNG Management. All elected councillors and interested officers are invited to attend. The adopted format is a presentation from BNG management on progress on achieving key site objectives. Additional presentations are agreed on subjects of interest to the local authorities. These meetings are not open to the public and provide an opportunity for more frank discussion and allow elected members to ask questions and develop their understanding. The meetings are generally information giving and not consultative. However, the opportunity for frank discussion does potentially result in influence on locally based site-specific decisions.

4.6 Informal Meetings

Informal meetings continue to take place regularly between site operators and Copeland Members and officers on wide range specific issues. Often these meetings assist in understanding the position of each party but have limited impact on key policy issues. Increasingly BNG management meet key Council portfolio holders for informal briefings and discussions prior to meetings of Copeland's Nuclear Working Group.

4.7 In general, policy options in relation to the long term management of radioactive waste are rarely addressed at these site-specific meetings.

4.8 Over the last year there has been a need to develop a working relationship with the NDA. The latter now determine strategy and the key decisions related to the West Cumbrian sites. The advent of NDA has meant that the opportunities for the Copeland community's voice being heard on strategic issues have grown markedly. Prior to this, strategic issues were a matter between BNFL and central government's Department of Trade and Industry.

4.9 Community Engagement Sub Committee of WCSSG

This group has been established to look at future key decisions related to the sites, and to develop a framework and processes for engaging the wider community to the issues. The Leader of Copeland Borough Council chairs this Sub Committee. One of the key barriers to be addressed is how local people can be given the capacity and knowledge to engage meaningfully in what are often highly technical decision-making processes.

4.10 Formal Consultations

Copeland Borough Council is increasingly consulted formally by regulatory bodies on a range of decision processes associated with radioactive waste management on local sites. The majority of these relate to specific decisions concerning routes for treatment or disposal of waste or interim storage in the case of ILW/HLW. Such consultations are directed at Copeland Borough Council where the proposals affect sites in Copeland. More often than not this is also the case when it is proposed to move waste to Sellafield or Drigg. The Council's

responses to such consultations centre on concerns about incremental decisions to move radioactive waste to Copeland outside any national strategic context. In the case of LLW, movements from around the UK to Drigg for final resting are discouraged by the Council in the absence of a longer-term national strategy for ILW/HLW. In absence of national strategies Copeland's position appears to be given little consideration in these decision-making processes. In 2005 the government's Department for Environment, Food and Rural Affairs, in response to growing concerns about incrementalism, and in order to ensure that waste disposal routes were available to allow the NDA to do its decommissioning job, finally embarked on a national review of Low Level Radioactive Waste.

4.11 Copeland Borough Council as a Planning Authority

Copeland Borough Council can use its local planning powers to influence decisions related to nuclear waste management. The Council is currently preparing a new Statutory Local Plan for the Borough. The local plan provides a statutory framework within which individual planning decisions must be made. The English planning system allows applicants, who have planning applications refused by the local authority, appeal to the Secretary of State with the potential of having the local authority's view overruled. The Secretary of State will appoint an inspector to hear an inquiry and make recommendations. The policy context set out in the statutory Local Plan is an important consideration. Policies related to radioactive waste are currently being developed for the new Local Plan. These are subject to public scrutiny and consultation. The policies Copeland is proposing are attached as Annex I and are designed to restrict the movement of radioactive waste unless they are agreed by the community and produce more benefits than disbenefits.

- 4.12 Recent changes to the arrangements to deal with planning applications have reduced Copeland's ability to influence the industry. Planning regulations are now interpreted to mean that the relevant County Council Authority should deal with all applications that relate to the disposal of waste, including storage and processing for eventual disposal. In Sellafield's case, Cumbria is the relevant County Council. The latter deals with a very large geographic area and incorporates many communities that are not associated with the Nuclear Industry. This regulation means that decisions on the industry affecting the Copeland community are now taken some distance away largely by individual Councillors that are remote from it. This change occurred in 2005. Prior to this the County Council was happy to allow Copeland Borough Council to make such decisions through an agency agreement. For political reasons that approach has been dropped and decisions centralised.

5. Decisions Influencing Processes – Company Specific

- 5.1 BNFL National Stakeholder Dialogue. The Borough Council has taken part in the BNFL national dialogue process. This was independently facilitated by the Environmental Council and funded by BNFL. Its purpose is to bring stakeholders together into Working Groups to produce recommendations to BNFL aimed at improving the company's environmental performance. A range of areas of work has been agreed and responses delivered. The dialogue has also fed recommendations and views to the DTI over the nature and operation of the Nuclear Decommissioning Authority (NDA).
- 5.2 The process has been valuable in developing a shared understanding of a number of issues. Joint fact finding work has been particularly important in this process. It has been very helpful to Copeland in developing knowledge about the socio economic implications for Copeland of projected change in the industry. Shared understanding of this across all stakeholders has increased our ability to influence others to help develop and deliver appropriate responses. This has contributed to our ability to influence Government to agree actions aimed at managing socio economic transition.
- 5.3 Copeland has not been able to engage in all the work streams due to the heavy resource input that would be required to achieve this. Therefore the voice of our community, the most affected, has not always been heard sufficiently. We have argued for additional resources to

be made available to the Borough Council to engage more fully with nuclear issues, however, the government department that deals with Local Government finance has not been helpful in this matter. However the government Department of Trade and Industry, which deals with nuclear issues, has provided a secondee for three years.

6. Decision Influencing Processes – National Policy

6.1 National Consultations

Copeland has been responding to a range of formal consultations on national nuclear policy. These can arise from regulators or the relevant Government Departments. They have included National Decommissioning Policies, Managing the Nuclear Legacy White Paper (leading to Energy Act 2004 and formation of the Nuclear Decommissioning Authority). Until 2005 there was little evidence to suggest that formal influence mechanisms had achieved any significant change in Government intentions or produced any special consideration of Copeland's perspectives on these issues. Despite the direct impact of these policy decisions on our community, our responses appeared to receive no more consideration than any other interested individual's response. However, recently the Government has tried to engage Copeland in these decisions and has invited the Council to take part in stakeholder workshops on the review of the national Low Level Waste Policy. This, so far, has resulted in the production of a national consultation document. Initial indications are that this process is only partially recognising the views of the local community

6.2 NDA and the Energy Act: Cumbria Local Authorities/Department of Trade and Industry Joint Meetings

During the development of proposals for the Nuclear Decommissioning Authority and the preparation of the Parliamentary Bill, three Cumbria Local Authorities (Copeland Borough Council, Allerdale Borough Council and Cumbria County Council) had regular meetings with DTI officials. The meetings were preceded by meetings of the local authorities to agree a joint position on the issues arising. Meetings were attended by leaders and senior officers of the local authorities. The joint approach allowed a strong voice to be presented to Government officials. This process reflected a growing inclination by government to engage with the local community and has delivered very significant benefits to the local community. This appears to reflect a growing recognition that the support of the community is important if the government is going to succeed in effective policy delivery. However, few clear concessions arose out of this process. Whilst the civil servants' need to avoid any controversial issues disrupting the bill's timetable led to some minor concessions, the most significant of the local authorities' achievements were the result of direct political lobbying. This led to changes in the bill's wording as a result of amendments raised in the House of Lords by supportive members of the House; the kind that civil servants had hoped to avoid. These amendments to the legislation went a significant way towards achieving the local authorities' objectives, which were to build into legislation a requirement to take into account the implications of NDA decisions on the local economy and take remedial action.

6.3 The process has strengthened the local authorities' ability to work together and jointly campaign and lobby about key issues of concern.

6.4 In addition to strengthening the socio economic responsibilities placed on NDA in the Act, the process also led to the signing of a Memorandum of Agreement between the Government/NDA and the local authorities, setting out the role each would play in managing the socio economic transition. The local authorities initiated the idea of this agreement and prepared and submitted the initial drafts to government for their consideration. A West Cumbria Strategic Forum has also been formed at the national level to co-ordinate Government's input to manage the transition in West Cumbria. The latter includes Government Ministers and chaired by the Secretary of State for Trade and Industry. There have been some positive announcements arising from the early work of the Forum that includes new investment in University Education in Cumbria and additional funding for housing renewal. In addition Government have agreed to adopt a process of 'West Cumbria

Proofing' its decisions. It is intended that, although it will not prevent decisions being taken which will have a negative effect on West Cumbria, it will ensure that civil servants are more aware of the implications of their decisions for West Cumbria and consider remediation measures. As yet we are waiting to see this operating effectively.

6.5 Local and regional partners are now developing a master plan for regenerating the West Cumbria area which identifies what actions need to be taken and how they can be funded. This will be presented to the West Cumbria Strategic Forum. It will identify what Central Government will need to do as well as local organisations

6.6 NDA Steering Group/ West Cumbria Strategic Forum Local Group

The NDA Steering Group was a West Cumbrian campaigning group chaired by Dr J Cunningham; Copeland's MP and included local authorities and other local agencies. It co-ordinated campaigning activities, successfully focussed on making sure that NDA's HQ was located in Copeland, supported the campaign for the Memorandum of Agreement, (see above) and ensured that the West Cumbria Strategic Forum was properly established. It has been successful at focussing political attention in some key target areas. It has now been transformed into the West Cumbria Strategic Forum local group chaired by Copeland new Member of Parliament, Jamie Reed M.P. This coordinates inputs to the national West Cumbria Strategic Forum and provides leadership locally in relation economic transition and nuclear issues

6.7 NDA Formal Consultation Processes

Prior to the formation of the NDA in 2005 strategic issues were a matter between BNFL and central government's Department of Trade and Industry and the communities input was limited. So far, the NDA has adopted a very transparent approach to dealing with such issues. This approach is set out in statute. They must prepare strategies and annual action plans. Copeland Borough Council is designated as a statutory consultee in the relevant Act. (Energy Act 2004). In their first year the NDA has provided a much more coordinated strategic view and set their intentions out in the strategy, which has to be approved by Government. The formal consultation on their first strategy is complete. Cumbrian partners submitted a joint response. It is too early to say how far the local voice has influenced its final content. It is clear that the mechanisms for influence are now more transparent.

6.8 Neither the former SLLC arrangements nor the new WCSSG arrangements have taken formally into account Copeland's need to be involved in decision processes outside our area that may impact on Copeland as a receiver, or potential receiver of, radioactive waste (i.e. decisions in other nuclear sites). To address these issues properly would require resource capacity that is not currently available.

6.9 CORWM

The role and nature of the Committee on Radioactive Waste Management has been explored elsewhere in CORWM 2's work. Copeland's interaction with CORWM has been both through formal processes and intervening informal contact. Nevertheless, Copeland adopts a watching brief and clearly has concerns about CORWM's outcomes that could affect the Borough. As a community that others see as a receiving area for radioactive waste, we believe we have been able to make a contribution to the development of the principles that CORWM is recommending to DEFRA. In general; we feel this has been a very successful process and our community have had good opportunities to input. CORWM's draft recommendations have recently been announced and appear in many respects to reflect the views of the Borough

Council on the relationship between waste receiving areas and the Government. It includes principles of partnership, compensation and the right of communities to withdraw from siting processes.

6.10 Nuclear Legacy Advisory Forum. (NuLeAF)

Over the past 18 months English local authorities have formed a special interest group to look jointly at nuclear legacy issues including decommissioning and waste. This project was the initiative of Cumbria County Council, Copeland Borough Council and the Nuclear Free Local Authorities working together. The group now includes over eighty members and has risen sufficient funding to employ a full time Director. It is rapidly delivering its ambition of becoming the common voice of national local government on nuclear issues. It has been entering into dialogue with other key bodies and producing joint responses to consultations. It was recently commissioned its own research on radioactive waste siting and conditions for its acceptability to local communities. It is successfully bringing together pro nuclear and anti nuclear authorities by excluding issues of new investment in nuclear facilities from its agenda. Whilst it is a very new organisation it is starting to be very influential.

7. Issues arising for Copeland

7.1 The key issue for Copeland is how to influence national government policy decisions on nuclear waste in a way that benefits its local communities considering that:

- Copeland is a relatively small local authority with limited resources and no funding to deal with nuclear issues
- Copeland hosts the majority of the UK's nuclear legacy
- There is a strong reluctance in other parts of the country to retain waste and an expectation that it will be moved to Copeland.
- There have been incremental movements of waste to Copeland outside a clear national policy framework.
- A reluctance to transport waste unnecessarily will clearly be a key consideration in CORWM's recommendations.
- Decisions need to be taken urgently on the location of interim storage of nuclear waste in order for the NDA to deliver its decommissioning clean up remit
- Copeland levers are limited. Its planning powers are now very much limited with Cumbria County Council taking the decision making role. However, even this change is subject to arbitration by the Secretary of State.
- Copeland is prepared to discuss equitable solutions including compensatory packages. However, given a lack of local veto Copeland has no real powers to stop government ignoring our requirements.
- The technical issues are often complex and effective engagement of the local community is difficult
- Copeland is not politically marginal or a key parliamentary seat. A Copeland solution would take the load off other potential receiver areas
- NDA's more transparent and coordinated approach is providing significant improvement in engagement and, therefore, local influence.
- The location of the NDA HQ within Copeland is probably the single most important factor in improving the ability of the local community to be heard and to influence thinking in the industry.

The Shetland Islands Experience

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1. Introduction

This vignette aims to outline the experience of Shetland Islands Council in dealing with nuclear matters. Our experience has been gained mostly in relation to the Dounreay nuclear site, but we are also involved in discussions about nuclear matters at a national and sometimes international level.

The review reflects the experience of those Councillors and Officers in Shetland Islands Council who have had most to do with nuclear matters.

2. The Role of Shetland Islands Council

Shetland Islands Council (SIC) is the local government body responsible for most local services in the Shetland Islands. Serving a population of some 22,000, the Council is responsible for (inter alia) education, economic development, social services, housing, roads, internal transport, land-use planning, environmental services and waste management. It is involved with other local authorities in the provision of shared fire and police services. Other public bodies provide health, water and communications services in Shetland.

Apart from providing services, the SIC is expected to represent the views of the Shetland community and to ensure that the interests of the islands are not prejudiced by developments elsewhere. Examples of this kind of activity include:

Submitting comments on proposed Government legislation;
Lobbying at UK or European level on changes to regulations – for example, affecting fisheries – which may have an impact on Shetland;
Participating in partnerships at UK or European level that may serve to protect or enhance Shetland's position, for example the organisation known as KIMO that seeks to protect the marine environment and the UK based Nuclear Free Local Authorities.
Membership, through our Convener, of Mayors for Peace.

Another example is the SIC's activity over many years in seeking to ensure that the operations at the Dounreay nuclear site do not create actual or perceived risks to Shetland's people, environment or economy.

3. Key Issues for Shetland Islands Council

The SIC sees the presence of the nuclear site at Dounreay, approximately 160 km south-south-west of Shetland, as a potential threat to the well-being and prosperity of our islands. We believe that there have been, and continue to be, strong grounds for that concern. In particular – as is widely acknowledged – past practices at the Dounreay site led to unacceptable discharges of radioactivity into the environment. The Dounreay site is currently being decommissioned, but the decommissioning process involves solving very challenging waste management problems. The SIC wants these problems to be tackled in ways that guarantee the minimum level of discharges of radioactivity to the environment. The SIC's concern is that any significant discharges from the Dounreay site would cause actual pollution of the waters or atmosphere around Shetland; there would be consequent loss of fishing grounds and possibly damage to the wider environment and wildlife, putting the Shetland economy at serious risk;

lower-level discharges to the sea or the atmosphere, even if they did not represent a significant biological risk, would lead to a loss of confidence in produce from Shetland and the seas around it and might damage Shetland's reputation as a tourist destination

The SIC has consistently opposed expansion of nuclear activity at the Dounreay site. In the early 1980s, with strong support from the people of Shetland, the Council joined with the Orkney and Western Isles Councils to resist proposals to construct a demonstration reprocessing plant at Dounreay. However, this vignette concentrates on more recent events connected with the decommissioning project. The official website for the UKAEA site at Dounreay can be found at:

http://www.ukaea.org.uk/sites/dounreay_site.htm

4. Decision Influencing Processes – Site Specific

The SIC is registered as a stakeholder for the purposes of consultation on proposals related to the Dounreay site. This means that the operators of the site - at present, the United Kingdom Atomic Energy Authority (UKAEA) - include the Council when they issue a new consultation document. The Council responds to the consultation and waits to see how its comments have been dealt with.

Dounreay Stakeholder Group

This Group, which was established at an inaugural meeting on 21 March 2005 and replaced the former Dounreay Local Liaison Committee, is the formal mechanism for communicating information about what is happening on site to the local community and other stakeholders. Meetings are held in public. It is independently chaired and attended by elected representatives from local authorities, community councils and non-elected representatives from other relevant agencies. Site operators and regulators are present and provide reports on progress and regulation. The secretariat is provided by UKAEA. The SIC is a member of the Stakeholder Group.

According to the Stakeholder Group's website (which is at <http://www.dounreaystakeholdergroup.org/>),

The new group is expected to monitor the performance of the site contractor and the NDA in areas such as programme delivery, safety, environment and security, and play an important role in the economic regeneration of the area. It will be part of a network of site stakeholder groups across the UK, with each site group represented at meetings of a national stakeholder group being set up by the NDA.

The Stakeholder Group's terms of reference are:

- To provide an active, two-way channel of communication between the site operator, the NDA and local stakeholders.
- To give an opportunity for questioning the operator, the NDA and regulators.
- To represent local views and input timely advice to the NDA and site operator
- To comment on the performance of NDA and site operator with regard to achievement of plans, value for money, etc.
- To commission and receive reports about activities and their impact on, for example, safety, the environment and local economy.
- To review arrangements for such matters as emergency response.
- To scrutinise and input into the prioritisation of work programmes.
- To provide views and comments to the NDA and site operator on the future of the site.
- To provide views on the NDA contract with and the performance of the operator.
- To set up sub-groups to address specific issues relevant to the clean up programme.
- To set up wider local consultation via public meetings and other mechanisms as required.

As will be obvious from the terms of reference, the Stakeholder Group has no executive powers. It is one of the mechanisms for consultation about future developments at the site. It focuses on affected

communities and its members represent Local Authorities, local Community Councils, trade associations, trade unions, schools and so on. Safety and regulatory bodies are observers, not members.

Member-Officer Working Group

The SIC has established a Member-Officer Working Group on nuclear issues. It consists of those Councillors and council officers who have relevant responsibilities. The local Member of Parliament and Member of the Scottish Parliament are also members. The Group reviews and articulates the Council's policy. It tries to ensure that the policy is coherent and that our views are expressed in a systematic way. It does this through:

- contributions to the work of the Stakeholder Group;
- responding to consultations from Dounreay;
- commenting on national and international issues, often in consultation with organisations such as KIMO and Nuclear Free Local Authorities; and
- advising the MP and MSP of the Group's views.

Informal Meetings

There have been informal meetings or contacts between the Dounreay management over recent years, but these tend to be irregular and infrequent. In late 2004, for example, senior staff from Dounreay came to Shetland in response to the Council's extreme concern about the way in which the Council's comments on a particular consultation had been dealt with. Councillors and council officials have also paid occasional visits to the Dounreay site.

Shetland Islands Council as a Planning Authority

The SIC hopes that it will never be presented, in its role as planning authority, with any proposal to establish any kind of nuclear facility in Shetland. The Shetland Structure Plan is the statutory land-use plan for Shetland. The Plan can be viewed online at:

<http://www.shetland.gov.uk/splan/plan.htm>

Structure Plan policy SP WM6 states that:

Proposals for the storage, processing or disposal of waste from the nuclear industry will be resisted

This policy refers to any proposed development within Shetland.

Policy SP WM7 states that:

The Council will oppose any nuclear development, wherever located, that threatens Shetland's environment and the employment that depends on it.

This policy is relevant not only to Dounreay but also to any other nuclear development, whether in the UK or elsewhere, that is believed to carry risks for Shetland. In common with all other planning policies, these were legally required to be the subject of full public consultation.

However, it needs to be borne in mind that the final planning decision in relation to any nuclear development (in Shetland or elsewhere) would almost certainly be taken by Scottish Ministers (i.e. the Government in Edinburgh) after a public inquiry held by a Reporter appointed by the Scottish Executive. This is normal practice in Scotland (and is similar to the procedure elsewhere in the UK) whenever major, controversial developments are proposed. It needs to be borne in mind, however, that energy policy is a matter reserved to the UK government and the weight that the Scottish Ministers might attach to UK energy policy when considering the planning merits of a proposed new nuclear facility can only be a matter of speculation at present.

Other Processes

British Nuclear Fuels Ltd National Stakeholder Dialogue

Shetland Islands Council, through its membership of KIMO, has had some experience of participation in the BNFL National Stakeholder Dialogue, which is a national consultation process independently facilitated by the Environment Council and funded by BNFL. Its purpose was to bring stakeholders together into Working Groups to produce recommendations to BNFL aimed at improving the company's environmental performance, primarily focusing on Sellafield. The Dialogue has contributed to the development of the role and remit of the Nuclear Decommissioning Authority. SIC representatives have not been able to be involved in all of the Dialogue work, simply because of lack of time, but we have found the Stakeholder Dialogue useful in assisting our understanding of national issues.

The Environment Council is a charity: the website is at <http://www.the-environment-council.org.uk/>)

CoRWM

The Shetland Islands Council has had regular contact with the UK Committee on Radioactive Waste Management (CoRWM) and is a stakeholder in the Forum. The SIC has also supported the submission made to CoRWM by Nuclear Free Local Authorities (NFLA), more details of which are provided below. More information about CoRWM can be found at:

<http://www.corwm.org.uk/>

KIMO

Shetland Islands Council is a founder-member of KIMO (Kommunenes Internasjonale Miljorganisasjon, or in English the Local Authorities' International Environmental Organisation). KIMO is an association of more than 100 local authorities around the coasts of Northern Seas of Europe, excluding the Baltic. KIMO takes an active interest in nuclear matters as well as in other issues to do with marine pollution and safety. The SIC provides the Secretariat for KIMO and is well placed to relay the concerns of KIMO members to UK government and its agencies. More information about KIMO and its activities can be found at:

<http://www.kimointernational.org/Default.aspx?tabid=1>

NFLA

Shetland Islands Council has for many years been a member of Nuclear Free Local Authorities, which is a federation of those local Councils throughout the United Kingdom that are opposed to nuclear weapons and wish to see the phasing out of nuclear power. There are currently 80 member Councils. The SIC actively contributes to NFLA discussions, shares information and contributes research and policy proposals to the national body. More information about NFLA and its work can be found at:

<http://www.nuclearpolicy.info/>

NENIG

NENIG is organised by a small group of Shetland islanders and is totally independent and non-party political. NENIG has extensive contacts in governments, environmental organisations, political parties, fishing industry, and the media. NENIG works closely with local Members of Parliament and with other MPs and MEPs of various political parties in Europe and Scandinavia. It also co-operates with KIMO. It is financially supported by the SIC and has received project funding from a wide range of organisations. The SIC draws extensively on NENIG's extensive information base and on the expertise of its staff in responding to consultations and in working with such bodies as NFLA. The NENIG website is at:

<http://www.n-base.org.uk>

NuLeAF

The Council is an associate member of NuLeAF, the Nuclear Legacy Advisory Forum.

5. Shetland's Experience of Consultation

Rather than set out in detail our experience over many years, it may be best to provide some indication of the present situation as reflected in two recent consultations issued by Dounreay in relation to decommissioning projects.

Consultation on the treatment of radioactive solvents and oils

During 2003, Dounreay stakeholders were asked to consider proposals concerning the treatment of fairly small quantities of oils and solvents. The consultation was a 'pilot' for Dounreay's new policy of stakeholder involvement and public consultation.

The SIC put forward the most thorough submission the UKAEA received. It ran to more than eight pages. We made detailed comments on the various proposals for treating the oils and solvents; we noted omissions in the consultation papers; we opposed incineration of the waste and any transport of waste offsite; we raised concerns over the possibility of wastes being imported into Dounreay for incineration; and we questioned the way in which the UKAEA was conducting its stakeholder involvement. The Nuclear Free Local Authorities supported the Council's submission.

The UKAEA published a final report on the results of the consultation and concluded that incineration was the best and preferred option to put to regulators. The response from 800 stakeholders was very low: there were just 18 replies and most of these were very brief responses to a simple question and answer form on the UKAEA website.

The only mention of the SIC's submission in this final consultation report was in a list of those who had made comments. The UKAEA commented upon all the other submissions and internet web forms in the context of the options for treating the solvents and oils. No reference at all was made to any of the SIC's comments, or those of the Nuclear Free Local Authorities.

The SIC wrote to Mr Dipesh Shah, the UKAEA Chief Executive, complaining that its submission had been ignored and also raising serious concerns about the purpose and value of its continued participation in the UKAEA's stakeholder participation exercise. There was no doubt in our minds that the UKAEA had made a dreadful mess of the consultation exercise. It also raised wider questions about its commitment to openness and called into question the whole stakeholder process. All of this came just a few months after the main UKAEA Board commended the "innovative use of stakeholder participation" at Dounreay.

In response to our letter, the Director of Dounreay and his senior staff -including the UKAEA's Head of Communications – visited Shetland in August 2004. They apologised for their poor performance and agreed that the document describing the results of the consultation should be re-written to take account of the SIC's submission and re-issued to all stakeholders. They also agreed to hold a mini consultation once the document was re-written. They explained that their failure to incorporate our views was an 'oversight'. They did subsequently revise and re-circulate the document, as they had undertaken to do.

Among other issues, this episode raised the question of the weight attached to the views of particular stakeholders. There are 800 registered Dounreay stakeholders, made up of 200 individuals who registered their interest, UKAEA and contracting staff, regulators, MPs and MSPs, NGOs and Government bodies.

However, it is hard to see how all of these stakeholders can have equal weight. The UK Government Department for Trade and Industry is a stakeholder but it owns the site. The Scottish Environment Protection Agency and other regulators have direct legal responsibilities and decision-making for Dounreay. Many of these stakeholders are directly involved in decision-making and forming recommendations at Dounreay from the very earliest stages. To pretend that these stakeholders are

treated and considered equally with Mr E Christie of Valley Crescent, Aberdeen, for example, who filled in one of the website consultation forms, seemed to us to be extraordinary.

(2) Consultation on the future of PFR raffinates

This consultation during 2004 was concerned with the treatment of another type of material, raffinates from the Dounreay Prototype Fast Reactor. At an earlier stage in the decommissioning process, these had been classified as high-level waste and there had been proposals to treat them as high-level waste and vitrify them. The consultation proposed a new approach, which involved re-classifying them as intermediate-level waste and embedding them in cement. This, it was argued, would be easier, quicker and cheaper.

Dounreay had raised the new proposal in stakeholder discussions and it was agreed that a wider consultation should be undertaken. A consultation document was issued. However, soon after the consultation started, the UKAEA announced a chosen list of consortia of international engineering firms to build a plant to manage the raffinate waste. The Near Term Work Plan approved by UKAEA Board and submitted to the Nuclear Decommissioning Authority and the Department for Trade and Industry (among others) states clearly this will be a cementation plant. According to the Near Term Work Plan, design work is well advanced. Even if it was the case (as we were told in response to an enquiry we made to Dounreay) that the tenders to be issued were for either a vitrification or cementation plant, this still rules out the other options proposed in the consultation document, including ceramics and continued storage. In other words, they had already decided that they would use cementation (or possibly vitrification), regardless of the outcome of the consultation process.

In fact, the SIC has no concerns about the cementation option. Our concern here was about the way in which consultation was managed and specifically that a decision had been taken whilst the consultation process was still in progress. Indeed, this may be one instance in which the way forward was already established, and consultation was at best inappropriate and at worst misleading.

Needless to say, the SIC expressed its concerns about this and about the doubt that it cast on Dounreay's consultation processes. In response, UKAEA's Head of Communications wrote a long letter explaining that:

They must have a 'reference strategy' in place for every kind of waste on site, in order to demonstrate that they can find a solution for every problem. This strategy was reflected in the Dounreay Site Restoration Plan (DSRP);

They had changed the reference strategy for PFR raffinates from vitrification to cementation before the consultation began;

The Dounreay Site Restoration Plan would be revised in 2005 and stakeholders would be involved;

In future, public consultation would be built into the development of all the key projects in the Plan

It is clear that experiences of this kind do not help to build any faith or trust in consultation arrangements.

In fact, the SIC had been calling without success for a review of the DSRP in the light of a number of developments, including changes in Government policy and the lack of stakeholder involvement in the initial plan. The Scottish Environment Protection Agency (SEPA) and the Nuclear Installations Inspectorate had called for a revision of the DSRP as part of an application from UKAEA for revised discharge authorisations.

The SIC has also been very critical of the way stakeholder and public participation has been used in a highly piecemeal fashion, rather than considering the overall policy for the whole site. The SIC was therefore very concerned to learn that a UKAEA official recently told the British Nuclear Energy Society that a study for managing all of Dounreay's radioactive wastes for the next 60 years - which had been temporarily "put in the 'too difficult' tray" in 1999 - had been re-started in 2001. He also acknowledged that the UKAEA had made a conscious decision not to consult or involve the public, despite a suggestion from SEPA to UKAEA that there should be wide consultation and involvement. This was apparently because the site strategy on consultation was still being formulated. This rejection was noted and specifically referred to by SEPA in its decision document.

The Falkland Associates Report on the Dounreay Consultation Programme

The UKAEA commissioned Falkland Associates to report on the early experience of the Dounreay consultation strategy. SIC and NENIG representatives were invited to contribute their views during the preparation of the report. The full report is available on the Dounreay website at:

http://www.ukaea.org.uk/dounreay/dsrp/Dounreay_stakeholder_programme_evaluation_summary.pdf

On the consultation on solvents and oils, the Falkland Associates' report observed that:

...as far as we could tell a response was included to points from all the other substantial contributors, [but] the Shetland Islands Council's submission was not mentioned. Many of its points were directly relevant and clearly it should have been. We now understand that this was due to an oversight under pressure of time rather than being deliberate and that the Council will receive a full response and an apology. However this episode does serve to illustrate two important generic points:

The provision of feedback is a vital part of any stakeholder involvement initiative for all sorts of reasons, and if individuals or organisations make substantive comments and receive no feedback they will at best feel alienated from the process. Wherever practicable, the comments and response should be in the recommendations report, not provided via a separate letter (unless confidentiality has been requested). This maintains transparency and allows other stakeholders to see what comments have been made.

Perceptions of poor reliability in a stakeholder involvement process can easily grow into a more general lack of trust. The mood can change very quickly and it is not easy to recover good will if it is lost. Programmes must be properly resourced.

The report concluded that although mistakes had been made, the UKAEA's approach was capable of being developed into something satisfactory. The SIC's view is that the experience suggested that Dounreay's staff at all levels – committed though they may be to consultation – needed to take the report's recommendations into account if repetitions of the serious difficulties experienced at that point were to be avoided.

6. Conclusions

Shetland Islands Council is committed to ensuring that, as far as possible, the environment of the islands is protected and that any potential risks arising from operations at Dounreay are minimised. This stance has been taken partly because, on the one hand, the protection of people and the environment is essential in itself. On the other, the economy of Shetland is almost wholly dependent on a clean environment; this means that we must maintain the islands' reputation for the production of seafood and agricultural products of the very highest quality and that Shetland remains an attractive destination for visitors.

In the past, operations at the Dounreay nuclear site have not always been conducted in a safe and satisfactory manner and the Council believes that continued vigilance is necessary to ensure that reasonable standards are maintained. The Council recognises that the operations at Dounreay are now more transparent than they used to be and welcomes the commitment to consultation that now exists. Nevertheless, some recent experiences of these consultation processes have been unfortunate, as this vignette has demonstrated. The Council will continue to press for open and effective consultation as the decommissioning of the site continues over the years ahead.

Annex *Sellafield and the Nuclear Industry*

INTRODUCTION

The nuclear industry plays a key role in Copeland. There are currently some 11000 employed at Sellafield and a further 2500 jobs depend on the purchasing power of the industry and workforce. The current site owner and operator, British Nuclear Fuels (BNF), plays an important role in the community not only as an employer but also as a major stakeholder in projects to diversify the local economy. The company is a partner in the West Cumbria Development Fund which has supported major infrastructure projects including the Westlakes Science and Technology Park and the regeneration of Whitehaven harbour and which underwrites the business support role of the West Cumbria Development Agency. It also works proactively with local schools and training agencies to help them meet the skills needs of the local economy both now and in the future

The future of the nuclear industry is a national issue. Copeland has been the focus of major inquiries into fuel reprocessing (the THORP Inquiry) and into the development of an underground disposal site for radioactive waste (the NIREX Inquiry). Important areas of Government policy are

- There are no plans to invest in further nuclear power stations and the current BNF business plan envisages that all reprocessing will cease by 2012.
- The clean up of the legacy of the nuclear energy programme is proposed to be the responsibility of the Nuclear Decommissioning Agency which will be based in West Cumbria.
- A review of the national radioactive waste management strategy is underway with completion not expected until 2006.

The wide ramifications of this policy background have been discussed in the Employment Chapter. However two crucial issues are how the local community is involved in the debate on the future of the industry and how to ensure that whatever solutions are found that they are sustainable in the widest sense of a healthy local economy, environment and community.

RADIOACTIVE WASTE MANAGEMENT

Reference has been made to the DEFRA review of national radioactive waste management policy. The Council is keenly aware that previous proposals for a radioactive waste deep disposal site have focused on Copeland. This is a strategic national and international issue, which will be determined by the Government. As set out in the Development Strategy (2.10) the Council wishes to ensure that in so far as any decision has a spatial impact on Copeland it is based on a full consideration of all the facts

Policy NUC 1 : Radioactive Waste Storage and Disposal

The Council will only support a proposal for disposal or long term storage of radioactive waste where it meets the requirements set out in Structure Plan Policy ST9 and Local Plan Policy DEV8 and in addition has

- 1 Involved and secured the support of the local Copeland community in the development and subsequent implementation of such proposals
- 2 Included measures to meet local community needs and to mitigate the adverse effects of the proposals on the social and economic well being of the community.

SELLAFIELD

The Sellafield site occupies some 300ha of land on the coast north of the village of Seascale in an area of relatively low population density. It started producing plutonium for military purposes in 1946 and later the first ever commercial nuclear power station was built at Calder Hall in 1956. An experimental Advanced Gas Reactor was built in 1963. Today none of these plants is operational and the Windscale military reactor piles are currently being decommissioned

At present the site supports four main activities:

- The reprocessing of irradiated fuel;
- The treatment of waste products arising from reprocessing
- The manufacture of MOX fuel from plutonium and uranium recovered from reprocessing;
- and the storage on site of waste products.

For a number of reasons reprocessing is becoming a less attractive option for dealing with irradiated fuel on both environmental and economic grounds. In addition the magnox stations are being phased out. In the foreseeable future therefore it is likely that reprocessing will cease at Sellafield and the remaining on site activity focused on decommissioning and clean up. The current British Nuclear Fuels business plan assumes that by 2013 all reprocessing plants and the MOX fuel fabrication plant will have been shut down. The economic implications of this have been referred to previously as a key driver for developing alternative employment opportunities. However the site based issues include

- The greater part of the UK inventory of intermediate waste and all the UK highly active waste is stored at Sellafield. The change of emphasis in national waste management policy from reprocessing to storage may lead to proposals to import fuel or other waste to Sellafield for storage. This is particularly likely in the light of the long-term timetable for the DEFRA review of waste management options. The Council considers it would not be in its interest for this to happen because it would tend to influence and take the pressure off the DEFRA review. *However the reality is that some decisions will have to be taken on operational, safety and environmental grounds over the next two or three years. The Council needs to be in a position to negotiate with the industry as and when such proposals come forward*
- The decommissioning proposals for the site will extend well beyond the Local Plan timescale. However as with the decontamination of other industrial sites it is important that the end use is established and that activity on site complements and contributes to this end.

It should be noted that the Government is proposing to establish a Nuclear Decommissioning Authority to be responsible for the radioactive waste legacy in the UK. It will take over the ownership of the Sellafield site and other British Nuclear Fuels assets. A detailed decommissioning programme for the Sellafield site is being developed in the form of a lifecycle baseline incorporating milestones towards achieving a restored site. It will be subject to local consultation and agreement and will inform decisions by the Council under Policy NUC2.

Policy NUC 2: Use of the Sellafield Licensed Site

Within the licensed site boundary development for or related to the nuclear fuel cycle will be permitted subject to the following conditions:

- 1 With the exception of irradiated fuel and the transfer of waste from Drigg no radioactive waste shall be imported for treatment or storage *unless the proposal*
 - *Represents the best practicable environmental option and is an interim proposal pending agreement on a national disposal route*
 - *Involved and secured the support of the local Copeland community*
 - *Includes measures to meet the local community needs and to mitigate the adverse effect of the proposal on the social and economic well being of the community.*
- 2 The development contributes towards a long-term strategy for the future management of the site

There are proposals to transfer office jobs currently provided within the site to locations outside the licensed site boundary. As far as possible the Council would expect these jobs to be relocated in accordance with the Development Strategy and Town Centre policies. There may be instances where there is a need to locate these jobs adjoining the licensed site boundary and so extend the area of the site. No provision is made for such development in the plan. If such development were to be approved the Council would seek an agreement to assist in the provision of compensatory investment to address the loss of the benefits of this employment from more sustainable locations, in particular town centres.

Policy NUC 3: Relocation of Non Radioactive Development

The relocation of non-radioactive development from the site shall be undertaken in accordance with the Development Strategy Policies DEV 1 to 5. The following preferred locations are identified:

- General office in town centre or edge of town centre locations
- Nuclear technology related at Westlakes Science and Technology Park
- Workshops/processing operations on local employment sites

Where there are exceptional operational or other grounds for locating development contiguous or very close to the Sellafield site this would be considered favourably in the context of Local Plan Policies DEV 6 and DEV 8 subject to the applicant entering into a planning agreement or making a unilateral undertaking to address the loss of this investment elsewhere in the Borough.

DRIGG

The disposal of all solid LLW arising at Sellafield is undertaken at Drigg LLW Disposal Site about four miles to the south of Sellafield to which it is linked by rail. It has been operational since 1957 and is effectively the national LLW disposal site. It was originally tipped very much like any other landfill site but over the last few years significant improvements have been to the way in which the site is managed.

In the absence of a national strategy for radioactive waste there is no agreed long-term disposal route for LLW once Drigg is full. BNF has introduced high force compaction and grouting of waste which will extend the life of the consented area of

the site. The Council takes the view that the use Drigg site should not include processing of waste since this would be incompatible with this quiet stretch of coastline and would lead to increased traffic and disturbance to the village of Drigg. However responsibility for development proposals at Drigg relating to the storage of waste lies with Cumbria County Council as waste disposal planning authority.

POLICY NUC 4: Drigg Disposal Site

The Council when consulted on development proposals at the Drigg Disposal Site will seek to resist any proposal for an extension to the existing consented area for the disposal of low level waste or for the introduction of processing operations associated with disposal.

POLICY NUC 5: Transport of Materials to Drigg

In considering a consultation on any proposal for further development within the consented area at the Drigg Disposal Site the Council will seek to ensure that construction materials are brought to the site by rail as a condition of any consent.